

APPEAL NO. 030431  
FILED APRIL 2, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 17, 2002. The parties stipulated that the appellant (claimant) is entitled to supplemental income benefits (SIBs) for the fifth quarter and the hearing officer determined that the claimant is not entitled to SIBs for the sixth quarter. The claimant appeals the determination of nonentitlement for the sixth quarter. There is no response from the respondent (carrier).

DECISION

The appeal in this case was not timely filed and the decision and order of the hearing officer have become final. Section 410.169.

The claimant's request for appeal states that he received the decision on December 18, 2002, which is incorrect, as the decision was not distributed until December 30, 2002. He then goes on to incorrectly state that the Request for Review must be filed by February 11, 2003, pursuant to Section 410.202. A request for appeal is timely if it is mailed on or before the 15th day after the appellant receives the decision and if it is received by the Texas Workers' Compensation Commission (Commission) on or before the 20th day after the date of receipt of the decision. Section 410.202, Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). Records of the Commission show that the distribution day for this decision was December 30, 2002. Under Rule 102.5(d), unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed; in this case deemed receipt is January 4, 2003. The appeal needed to be mailed no later than January 27, 2003, the 15th day from the deemed date of receipt. The claimant's appeal was faxed to the Commission at 5:37 p.m., February 17, 2003, and was received on February 18, 2003. The appeal is untimely because it was transmitted after the 15-day deadline.

The decision of the hearing officer is final in the absence of a timely appeal. Section 410.169. Determining that the appeal was not timely filed, as set forth above, we have no jurisdiction to review the hearing officer's decision.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
ACE USA  
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200  
IRVING, TEXAS 75063.**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge